



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCIO  
GOVERNOR

DAVID P. LITTELL  
COMMISSIONER

To Board of Environmental Protection

From Richard M. Currie, Hazardous Waste Enforcement Program  
Bureau of Remediation and Waste Management

Date December 7, 2006

RE Administrative Consent Agreement – Pine State Safety Lines, Inc

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Statutory and Regulatory Reference. The Maine Hazardous Waste Management Rules, Chapters 850 through 857 adopted pursuant to the Maine Hazardous Waste, Septage and Solid Waste Management Act, 38 M.R.S.A. Section 1301 et seq, specifies certain requirements for the management, storage, treatment, and disposal of hazardous waste

Location Pine State Safety Lines, Inc., 115 Main Street, Topsham, Maine

Description. Pine State Safety Lines has entered into the attached Consent Agreement as proposed by Department staff in order to resolve violations of Maine's Hazardous Waste Management Rules. The violations were documented during an inspection of the facility on February 3, and February 16, 2006. The hazardous waste violations identified during the inspection include the following: 1) failure to determine if wastes generated are hazardous, 2) treating hazardous waste onsite without a license, 3) storage of hazardous waste onsite for more than 90-days, 4) failure to label and mark containers of hazardous waste, 5) failure to keep containers of hazardous waste closed, 6) failure to conduct and log daily inspections, 7) failure to update a hazardous waste contingency plan and arrangements with local authorities, 8) failure to have a containment and collection system, 9) failure to conduct personnel training on hazardous waste management, and 10) failure to comply with the requirements for universal waste, including disposal as solid waste, and failure to store universal waste in containers.

To resolve these violations, Pine State Safety Lines has undertaken corrective actions and has agreed to perform the following at its facility: 1) comply with the Hazardous Waste Management Rules, 2) determine whether all wastes generated by Pine State Safety Lines are hazardous waste; 3) discontinue evaporating hazardous waste, 4) ensure that hazardous waste are not stored onsite for more than 90-days, 5) properly label and mark containers of hazardous waste, 6) keep containers of hazardous waste closed, 7) conduct and log daily inspections of hazardous waste containers, 8) review and update the facility's contingency plan, 9) annually update arrangements with local authorities, 10) install a containment and collection system in the hazardous waste storage area, 11) annually conduct and document personnel training, 12) establish a universal waste management system, and 13) pay to the Maine Hazardous Waste Fund a penalty of nineteen thousand eight hundred dollars (\$19,800.00).

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX (207) 287-7826  
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BANGOR  
106 HOGAN ROAD  
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The Maine Hazardous Waste Fund is established by statute to provide the Department with the capability for prompt and effective response to spills and unlicensed discharges of hazardous waste, and for the inspection or supervision of hazardous waste handlers and related hazardous waste activities. Pursuant to statute, all fees, penalties, interest, and other charges relative to those activities must be credited to the Maine Hazardous Waste Fund.

Pine State Safety Lines has agreed to pay the above penalty, which is based upon the type and number of violations involved, the amount of waste involved, the relative extent of deviation from the requirements, and economic benefits realized. Aggravating factors considered in the penalty included the treatment of hundreds of gallons of hazardous waste by evaporation. Mitigating factors considered included Pine State Safety Lines' cooperation, and timely responses. The penalty originally was assessed at \$25,950.00. However, Pine State Safety Lines provided income tax records that the Department analyzed using the U.S. EPA's Ability-to-Pay computer model (ABEL). That analysis demonstrated an inability to pay the proposed amount. As a result, a significant adjustment was made to the proposed penalty to account for this particular financial situation and Pine State Safety Lines will be allowed to make penalty payments for six quarters beginning November 2006.

Environmental issues Improper evaporation of hazardous waste consisting of ignitable paint and paint related wastes from painting operations at the facility.

Procedural Issues Enforcement action as a result of a routine compliance inspection.

Department Recommendation The Department recommends that the Board accept this Administrative Consent Agreement and Enforcement Order as part of its Consent Agenda to resolve the issues addressed.

Estimated time of presentation No presentation. Unanimous Consent item.



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
STATE HOUSE STATION 17                      AUGUSTA, MAINE 04333

BOARD ORDER

IN THE MATTER OF

PINE STATE SAFETY LINES, INC	)	ADMINISTRATIVE CONSENT
115 MAIN STREET, TOPSHAM	)	AGREEMENT AND
SAGadahoc COUNTY, MAINE	)	ENFORCEMENT ORDER
HAZARDOUS WASTE ACTIVITIES	)	

This Agreement by and among Pine State Safety Lines, Inc ("Pine State Safety Lines"), the Maine Board of Environmental Protection (the "Board") and the State of Maine Attorney General is entered into pursuant to 38 M.R.S.A. § 347-A(1) and in accordance with the Department of Environmental Protection (the "Department") Consent Agreement Policy, as amended.

The parties agree as follows

- 1 Pine State Safety Lines is a corporation which is organized and exists under the laws of Maine and which operates a road and parking lot line painting operation at 115 Main Street in Topsham, Maine
- 2 Pine State Safety Lines is a generator of hazardous waste including, but not limited to ignitable and toxic, lead contaminated paint. As a result, Pine State Safety Lines is subject to the requirements of the Maine Hazardous Waste, Septage and Solid Waste Management Act ("Act") 38 M.R.S.A. §§ 1301 through 1319-Y and the Department's Hazardous Waste Management Rules ("Rules"), Chapters 850 through 857
3. On September 15, 1993, Department staff inspected Pine State to determine compliance with the hazardous waste management standards of the Act and the Rules. As a result of that inspection, the Department issued a Notice of violation on December 7, 1993 citing and requiring corrective actions for numerous violations. Subsequently, the Department and Pine State entered into a Consent Agreement and Enforcement Order on March 14, 1994. The Consent agreement included a monetary penalty of Eighteen Thousand Dollars (\$18,000)
- 4 On November 1, 1994, Pine State Safety Lines notified the U.S. Environmental Protection Agency of its hazardous waste generation activity. At that time, Pine State Safety Lines was assigned the hazardous waste generator identification number ME5000000174 for the site identified in paragraph 1 of this Agreement
- 5 On February 3, and February 16, 2006 Department staff inspected Pine State Safety Lines to assess compliance with the hazardous waste management standards of the Act and the

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Rules The inspection revealed the following violations

A Failure to determine if wastes generated are hazardous, in violation of the Rules, Chapter 851, Section 5

- i Pine State Safety Lines failed to identify waste ignitable and toxic paint as hazardous waste
- ii Pine State Safety Lines failed to identify waste ignitable methyl methacrylate and waste ignitable polymer concrete liquid component as hazardous waste These wastes were useless and unwanted products, labeled with an expiration date of October 1995

B Treating or disposing of hazardous waste on-site without a license to do so, in violation of the Rules, Chapter 851, Section 12(A) and Chapter 854, Section 5(B)

At the time of the inspection, Pine State Safety Lines was treating approximately three-hundred sixty (360) 5-gallon containers of hazardous waste paint by evaporation The containers had been left open to evaporate and most were approximately ½ full and completely hardened

C Accumulation of hazardous wastes for more than ninety (90) days without a license to do so, in violation of the Rules, Chapter 851, Section 8(B)(1) and 8(C)

Pine State Safety Lines began accumulating and storing the hazardous waste listed in paragraph (B) and an additional twenty-two (22) 55-gallon containers of hazardous waste paint in 2003 and continued to accumulate and store these wastes until March 2006, when they were shipped for disposal, subsequent to the inspection The facility also stored hazardous waste expired methyl methacrylate and hazardous waste expired "Polymer Concrete Liquid Component" since October of 1995

D Failure to label or mark each container of hazardous waste with the date upon which each period of accumulation begins and the words "Hazardous Waste", in violation of the Rules, Chapter 851, Section 8(B)(3)

Pine State Safety Lines failed to mark and label the three-hundred sixty (360) 5-gallon containers identified in paragraph B and eighteen (18) 55-gallon containers of waste ignitable paint with the accumulation start date and the words "Hazardous Waste"

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- E Failure to keep containers of hazardous waste closed except when adding or removing waste, in violation of the Rules, Chapter 851, Section 8(B)(2) and 40 CFR 265.173

Pine State Safety Lines failed to keep closed, the three-hundred sixty (360) 5-gallon containers listed in paragraph B and two (2) 55-gallon containers of hazardous waste paint in the hazardous waste storage area

- F Failure to conduct and log daily inspections of the hazardous waste storage area, in violation of the Rules, Chapter 851, Section 13(D)(1).

Pine State Safety Lines failed to conduct and log daily inspections

- G Failure to review and immediately amend its hazardous waste contingency plan as necessary if the list of emergency coordinators changes, or the list of emergency equipment changes, in violation of the Rules, Chapter 851, Section 8(B)(5), 40 CFR 264.54

Pine State Safety Lines failed to review and amend its contingency plan when its list of emergency coordinators and emergency equipment changed

- H Failure to annually update arrangements with local police and fire departments, local hospitals, and emergency response organizations, in violation of the Rules, Chapter 851, 13(C)(7)(c)(ii)

Pine State Safety Lines failed to update arrangements with local authorities since 1994

- I Failure to have a containment and collection system in a hazardous waste storage area, in violation of the Rules, Chapter 851, Section 13(B)(2)

Pine State Safety Lines failed to install a containment and collection system in its hazardous waste storage area

- J Failure to conduct personnel training, which includes instruction which teaches facility personnel hazardous waste management procedures relevant to the positions in which they are employed, in violation of the Rules, Chapter 851, Section 8(B)(5), 40 CFR 264.16(a)(1-3)

Pine State Safety Lines did not conduct personnel training

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K Failure to comply with the special requirements for universal wastes, in violation of the Rules, Chapter 850(3)(A)(13) The violations include but are not limited to

i Failure to ensure universal wastes are recycled

Employees of Pine State Safety Lines indicated that waste fluorescent lamps were not recycled and Pine State Safety Lines was unable to provide evidence that universal wastes were recycled

ii Failure to store universal waste in containers

One 8-foot fluorescent lamp was observed in a drum containing solid waste and was not properly containerized

6 The violations cited in paragraphs 5A, 5C, 5D, 5E, 5F, 5G, 5H, 5I, and 5K of this Agreement are similar to violations cited in the March 1994 Consent Agreement referenced in paragraph 3 above

7 On April 21, 2006, the Department issued a Notice of Violation (NOV) for the violations cited in paragraph 5 of this Agreement, and requested a written response, documenting corrective actions undertaken for each of the violations

8 On June 5, 2006, Pine State Safety Lines responded to the NOV and findings of the inspection, indicating corrective actions and hazardous waste management changes implemented since the inspection. The corrective actions and management changes included shipping of twenty-four (24) 55-gallon containers of hazardous waste, the identification and determination of waste paint, labeling and closing of hazardous waste containers, installation of a containment and collection system in the hazardous waste storage area, updating the contingency plan, training staff, and the collection of universal wastes

9 The Board has regulatory authority over the activities described herein

10 This Agreement shall become effective only if it is accepted by the Board and approved by the Attorney General

11 To resolve the violations referenced in paragraph 5 of this Agreement, Pine State Safety Lines agrees to

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A) Immediately comply with all applicable standards for hazardous waste generators pursuant to the Act, 38 M R S A §§ 1301 to 1319-Y, and the Rules, Chapters 850 through 857, including but not limited to the following

- i. Immediately identify and make hazardous waste determinations on all waste generated at the facility. Manage all wastes determined to be hazardous in accordance with the Rules
- ii. Immediately discontinue the practice of evaporating hazardous waste paint
- iii. Henceforth, ensure that hazardous wastes are not accumulated for more ninety (90) days
- iv. Henceforth, label and mark all containers of hazardous waste with the words "Hazardous Waste" and the accumulation start date
- v. Henceforth, ensure all containers of hazardous waste are closed unless adding or removing waste
- vi. Henceforth, ensure that personnel are trained within 6-months of initial hire and on an annual basis thereafter. This training must include training on Contingency Plan implementation
- vii. Henceforth collect and manage all universal wastes in accordance with the Rules, Chapter 850, Section 3(A)(13)
- viii. Henceforth ensure that the facility's contingency plan is reviewed and amended as needed and submit all changes in writing to the Department, in accordance with the Rules, Chapter 851, Section 8(B)(5), 40 CFR 264.54
- ix. Henceforth ensure that arrangements with local police and fire departments, local hospitals, and emergency response organizations, which may be involved in a hazardous waste emergency incident at the facility, are updated annually

B) Pay to the Hazardous Waste Fund, c/o the Department of Environmental Protection, a civil monetary penalty of nineteen thousand eight hundred dollars (\$19,800) in six (6) quarterly payments of three thousand three hundred dollars (\$3,300). The first payment is due upon signing of this Agreement. Subsequently payments shall be due on or before the following dates: March 31, 2007, June 30, 2007, September 30, 2007, December 31, 2007, and March 31, 2008. In the event of any default in the above payment schedule, including failure to make payment within seven (7) days of

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the due date, a late fee of fifty dollars (\$50) per week calculated from the due date of the missed payment shall be added to the balance due and shall accrue weekly until the scheduled payment(s) and late fee(s) are paid in full

- 12 The Board and the State of Maine Attorney General grant Pine State Safety Lines a release of their causes of action against Pine State Safety Lines for the specific violations listed in paragraph 5 of this Agreement when, and on the express condition that all actions listed in paragraph 11 of this Agreement are completed in accordance with the express terms and conditions of this Agreement, except that no release is granted for any discharges to or contamination of land, water, or ambient air as a result of activities at Pine State Safety Lines

### ORDER

Pursuant to 38 M R S A § 347-A(1) and the Department's Consent Agreement Policy, as amended, and based on the Agreement set forth above, the Board Orders Pine State Safety Lines to

Immediately comply with all applicable standards for hazardous waste generators pursuant to the Act, 38 M R S A § 1301 et seq. and the Rules, Chapter 850 through 857, including but not limited to the following

- a Immediately identify and make hazardous waste determinations on all waste generated at the facility Manage all wastes determined to be hazardous in accordance with the Rules
- b Immediately discontinue the practice of evaporating hazardous waste paint
- c Henceforth, ensure that hazardous wastes are not accumulated for more ninety (90) days
- d Henceforth, label and mark all containers of hazardous waste with the words "Hazardous Waste" and the accumulation start date
- e Henceforth, ensure all containers of hazardous waste are closed unless adding or removing waste
- f Henceforth, ensure all containers of hazardous waste are stored over a firm working surface that includes a collection and containment system



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- g Henceforth, ensure that personnel are trained within 6-months of initial hire and on an annual basis thereafter. This training must include training on Contingency Plan implementation
- h Henceforth collect and manage all universal wastes in accordance with the Rules, Chapter 850, Section 3(A)(13)
- i Henceforth ensure that the facility's contingency plan is reviewed and amended as needed and submit all changes in writing to the Department, in accordance with the Rules, Chapter 851, Section 8(B)(5), 40 CFR 264.54
- j Henceforth ensure that arrangements with local police and fire departments, local hospitals, and emergency response organizations, which may be involved in a hazardous waste emergency incident at the facility, are updated annually

IN WITNESS WHEREOF, the parties hereto have executed this Agreement consisting of seven (7) pages

PINE STATE SAFETY LINES INC

BY Marilyn Elwell  
 Marilyn Elwell, President

DATE 10-27-06

BOARD OF ENVIRONMENTAL PROTECTION

BY \_\_\_\_\_  
 Matthew Scott, Chair

DATE \_\_\_\_\_

SEEN AND AGREED TO  
 STATE OF MAINE

BY \_\_\_\_\_  
 Dennis J. Harnish,  
 Assistant Attorney General

DATE \_\_\_\_\_